



UNITED STATES PATENT AND TRADEMARK OFFICE

OCT 10 2002

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
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MAILED

Tarolli, Sundheim, Covell, Tummino & Szabo, LLP  
1111 Leader Building  
526 Superior Avenue  
Cleveland, OH 44114-1400

OCT 10 2002

Office of the Director  
Group 3600

In re Application of :  
Ralph Frisch : DECISION ON PETITION  
Application No. 09/676,237 : TO WITHDRAW THE  
Filed: September 29, 2000 : HOLDING OF ABANDONMENT  
For: FASTENER FOR SECURING A GAS  
BAG MODULE TO A STEERING WHEEL

This is in response to applicant's letters filed in the United States Patent and Trademark Office (USPTO), on September 10, 2002 and September 20, 2002. These letters are being treated together as a petition to withdraw the holding of abandonment. There is no fee for this petition.

The petition is **DISMISSED**.

A review of the file record reveals that a non-final Office action was mailed to the applicant on January 3, 2002. Since no response to the January 3, 2002 Office communication was filed, the application was held abandoned. Although no Notice of Abandonment has yet been mailed, the period for response has expired and the application is in fact abandoned.

Applicant argues in the letter of September 10, 2002, that he has been informed that the response filed October 10, 2001 was never received by the Office. Applicant has been given incorrect information. That response was received and resulted in the Office action mailed January 3, 2002. It is surmised that applicant later found out that the response of October 10, 2001 was indeed received, since the September 20, 2002 letter alleges that the applicant never received the January 3, 2002 Office action.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;

- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of April 3, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993). The petitioner has failed to comply with requirements (2) and (3) indicated above.

To satisfy requirement (3) above, a docket record showing all actions due by the firm of Tarolli, Sundheim, Covell, Tummino & Szabo, LLP at and around the due date of April 3, 2002, needs to be supplied.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Any inquiries specific to this decision should be directed to Steven Meyers at (703) 308-3868.



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Patent Technology Center 3600  
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SM: 9/28/02

